



NEWS

Judicial Council of California
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Release Date: October 29, 2002

Release Number: S.C. 44/02

SUMMARY OF CASES ACCEPTED DURING THE WEEK OF OCTOBER 21, 2002

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#02-169 Dowhal v. SmithKline Beecham Consumer Healthcare, S109306. (A094460; 100 Cal.App.4th 8.) Petition for review after the Court of Appeal reversed the summary judgment in a civil action. This case presents the following issues: (1) Does the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. § 379r) impliedly preempt the requirements of Proposition 65 as to the adequacy of warnings for over-the-counter drugs (see Health & Saf. Code, § 25249.6) in the event of conflict, despite the savings clause precluding express preemption (21 U.S.C. § 379r, subd. (d)(2))? (2) Is there a conflict between federal and state law as to the required warnings for nicotine replacement therapy products, such as nicotine patches and gum?

#02-170 E.M.M.I. Inc. v. Zurich American Ins. Co., S109609. (B152740; 100 Cal.App.4th 460.) Petition for review after the Court of Appeal affirmed the summary judgment in a civil action. This case presents the following issue: Does a jeweler's block insurance policy provide coverage for theft of jewelry from a vehicle when an insured's employee is standing outside the vehicle at the moment it and the jewelry it contains are taken?

(over)

#02-171 People v. Griffin, S109734. (B152731; 100 Cal.App.4th 917.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of

conviction of criminal offenses. This case presents the following issue: Does “force” for purposes of the offense of rape “by means of force” (Pen. Code, § 261, subd. (a)(2)) have a specialized meaning supporting a sua sponte duty to instruct a jury with the definition of the term?

#02-172 Guillory v. Superior Court, S109642. (A096442; 100 Cal.App.4th 750, mod. 100 Cal.App.4th 1303e.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. The court limited review to the following issue: Can a juvenile offender, who is to be tried as an adult under Welfare and Institutions Code section 602, subdivision (b), as amended by the Gang Violence and Juvenile Crime Prevention Initiative (Prop. 21, Primary Elec. (Mar. 7, 2000)), be prosecuted by indictment, or only by the filing of an information after a preliminary examination?

#02-173 In re Eddie M., S109902. (B151521; 100 Cal.App.4th 1224.) Petition for review after the Court of Appeal modified and affirmed an order in a wardship proceeding. This case presents the following issue: Can an order in a wardship proceeding be changed or modified under Welfare and Institutions Code section 777, as amended by the Gang Violence and Juvenile Crime Prevention Initiative (Prop. 21, Primary Elec. (Mar. 7, 2000)), on the basis of a violation of probation involving conduct amounting to a new criminal offense?

#02-174 Panther v. Park, S110025. (D039601, D039633; 101 Cal.App.4th 69.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate and dismissed an appeal as moot. This case presents the following issue: When a private attorney is personally disqualified from participation in a matter due to prior adverse representation not arising from public employment, must the attorney’s entire firm be disqualified or can disqualification be averted by appropriate screening techniques?

#02-175 People v. Allen, S110035. (A093927; 101 Cal.App.4th 263.) Review on the Court’s own motion after the Court of Appeal reversed a judgment of conviction of

criminal offenses. The court ordered briefing deferred pending decision in People v. Reynoso, S103343 (#02-33) and People v. Reynoso, S103340 (#02-34), which present

the following issue: Did the trial court make an adequate inquiry into the prosecutor's reasons for exercising a peremptory challenge against a prospective juror?

DISPOSITIONS

#01-125 Wilson v. Kuzmich, S099831, was dismissed and remanded to the Court of Appeal.

#02-16 Moore v. State Bd. of Control, S102849, was transferred to the Court of Appeal for reconsideration in light of Stats. 2002, chapter 1141.

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